

are going to put our focus on legal workers who are here in compliance with the law. That is what we sought to do that July day in 1998, requiring the growers to hire U.S. farmworkers first before they could seek alien workers. Then we took steps to try to ensure a measure of justice that would be required in our legislation for the migrant farmworkers by providing employment, housing, transportation, and other benefits, access to Head Start. I think Senator KENNEDY remembers this well from 1998. One would have thought Western civilization was going to end when that amendment offered by Oregon's two Senators got 68 votes in the Senate. I think it was an indication of how the animosity and fear that has surrounded this issue has enveloped the whole debate over the last few years, and that is why I commend Senator CRAIG and Senator KENNEDY for the thoughtful way they have worked since 1998 in order to build a coalition for this idea and to refine what the Senate voted for in 1998.

For example, in 1999, the National Council of Agricultural Employers, the employer group that helped start the process that led to the first AgJOBS bill of 1998, started reaching out directly to the Hispanic community representing agricultural workers, as well as churches and community groups. A dialog was begun then about how reform could benefit everyone.

In 2000, people from the agricultural employer community and those representing the farmworkers started talking more publicly about some of the issues that were particularly contentious. All of a sudden, there was an extended and thoughtful debate among people who were avowed enemies with respect to the topic of H-2A reform. Those people who had fought each other so bitterly began to come together and form a coalition that is behind the Craig-Kennedy amendment today.

In 1996, I formulated certain beliefs with respect to this issue that still hold true today. First, I believe willing and able American workers always should be given a chance to fulfill the needs of employers seeking agricultural labor. This was addressed in 1998 and it remains in the language before the Senate today. The amendment offered by Senator CRAIG and Senator KENNEDY requires employers seeking to use the H-2A program to first offer the job to any eligible U.S. worker who applies and who is equally or better qualified for the job, and then issue notice to local and State employment agencies, farmworkers organizations, and also through advertising.

We also said back then we wanted to have recommendations for a more straightforward, less cumbersome, less unwieldy process to address the shortage of primary foreign workers.

I commend Senator CRAIG and Senator KENNEDY because what we had been concerned about then—the need for simplicity and certainty—is now

embodied in a number of aspects in this amendment. Employers are required to provide actual employment to the worker, a living wage and proof of that employment so the worker can move freely between jobs. The employee is required to show proof of legal temporary worker status in the United States to the employer before becoming employed. Each party shoulders the burden of ensuring their documentation is legal. That is the way we said it ought to be in 1998. That is the way it is in the Craig-Kennedy proposal.

Third, I have always maintained and still maintain that a farmer using the H-2A program should not be able to misuse it to displace U.S. agricultural workers or make U.S. workers worse off. The language before us today meets that test by ensuring that H-2A workers must be paid the same wage as the American worker. There is no incentive to seek a guest worker because there is no opportunity to indenture that worker by paying lower wages or not providing enough work.

Fourth, and perhaps most important, we said then and it is clear in this amendment as well that any program must not encourage the illegal immigration of workers. This bill addresses that by requiring agricultural workers to show they are legally in the United States in order to collect the benefits available under this program, such as housing, transportation, and the civil right to sue their employers for back wages or for wrongful dismissal.

So the goal of this legislation is to take out some of the uncertainty and the lack of predictability that has been in this program, and that uncertainty would be removed for both growers and workers.

Certainly my State has a great interest in agriculture. There are certainly billions of dollars of direct economic output in this sector and there is a need to enact H-2A programs for my State, where we feel we do a lot of things well, but what we do best is we grow things, and the need for enacting this program is as great today as it was in 1998. Both sides in this debate are going to continue to have their differences, and my guess is, as the Senator from Idaho knows, there are probably some residual and historical grudges. This Craig-Kennedy proposal shows that in a very contentious area that has been gridlocked in the Senate since a July date in 1998, we can still find a creative process that brings people together to solve mutual problems.

I hope my colleagues will support this historic effort. I look forward to working with Senators on both sides of the aisle on this matter.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, what is the pending business? Is there an amendment pending?

The PRESIDING OFFICER. The pending amendment is the Chambliss amendment.

AMENDMENT NO. 483

Mr. BINGAMAN. Mr. President, I ask unanimous consent to set that aside so I can call up an amendment numbered 483.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 483.

Mr. BINGAMAN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase the appropriation to Federal courts by \$5,000,000 to cover increased immigration-related filings in the southwestern United States)

On page 202, strike line 24, and insert “\$65,000,000, to remain available until September 30, 2006, of which \$5,000,000 shall be made available for costs associated with increases in immigration-related filings in district courts near the southwestern border of the United States:”.

Mr. BINGAMAN. Mr. President, this amendment would provide an additional \$5 million for the U.S. district courts along our southwest border with Mexico. Due to the increased immigration enforcement efforts along that border, southwest border courts have seen an extraordinary increase in immigration-related filings. This amendment would help border courts cover those expenses as we continue allocating resources to secure our Nation's borders.

Since 1995, immigration cases in the five southwest border districts—that is, the District of Arizona, District of New Mexico, Southern District of California, and the Southern and Western Districts of Texas—have grown approximately 828 percent. In 2003, overall immigration filings in all U.S. district courts surged 22 percent. In 2004, they jumped 11 percent. Of those cases, 69 percent of them came from these five districts I have listed.

In recent years, Congress has appropriated millions of dollars to hire additional Border Patrol officers. Obviously, the more Border Patrol officers you have, the more cases you have coming into the Federal district courts. We need to recognize this. We need to recognize the enormous impact this is having on our courts in this part of the country.

This amendment would add an additional \$5 million to southwest border courts to the existing \$60 million that is currently allocated under the supplemental to cover expenses related to recent Supreme Court decisions and the class action bill. The Administrative Office of the Courts should be free to allocate the funds as it deems necessary among the various courts. I hope my colleagues will support that amendment.

AMENDMENT NO. 417

At this point I ask that amendment be set aside, and I call up amendment